



King County Board of Ethics
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KING COUNTY BOARD OF ETHICS MEETING NOTICE

When: Monday, June 18, 2001, at 4:30 p.m.

Where: Bank of California Building
900 Fourth Avenue, 4th Avenue and Marion Street, Seattle
5th floor conference room, northwest corner of building

AGENDA

1. ***Approval of Agenda***
2. ***Approval of Meeting Minutes of May 21, 2001.***
3. ***Request for Advisory Opinion.*** Cedar Hills Regional Landfill. Use of county property.
4. ***Administrative Policies & Procedures.*** Review and approval.
 - Procedures for Disseminating Ethics Information and Conducting Ethics Training
 - Procedures for Filing Acknowledgment of Receipt Statements, Statements of Financial and Other Interests, and Consultant Disclosure Forms
5. ***Review of the Ethics Code.*** Discussion.
 - Penalties
6. ***Staff Report.***
 - Final Report--2001 Disclosure of Financial and Other Interests
 - Filing Orders Amendment—status
 - Post Employment Amendment—status
7. ***Reception and Gift Expenses***

cc: Ron Sims, King County Executive
King County Councilmembers
Duncan Fowler, Director—Ombudsman, Office of Citizen Complaints
James J. Buck, Acting Director, DIAS
Donald J. Porter, Senior Deputy Prosecuting Attorney
Brad Bell, Operations Manager, Solid Waste Division, Department of Natural Resources

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are available by calling (206) 296-1586 or TTY 1-800-833-6388.

ALTERNATE FORMATS AVAILABLE

Minutes of the June 18, 2001, Meeting of the King County Board of Ethics

The June 18, 2001, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:30 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair
Lembhard G. Howell, Esq.
Rev. Paul F. Pruitt

Margaret T. Gordon, Ph.D., had an excused absence
Mr. Roland H. Carlson had an excused absence

Others in attendance:

Ms. Catherine A. Clemens, Administrator, King County Board of Ethics
Mr. Donald J. Porter, Senior Deputy Prosecuting Attorney
Mr. Duncan Fowler, Ombudsman, Office of Citizen Complaints
Mr. John Chelminiak, Chief of Staff, King County Council
Mr. Brad Bell, Operations Manager, Solid Waste Division, Department of Natural Resources.

1. *Proposed Agenda.* Following the addition of item #7, Reception and Gift Expenditures, Mr. Howell moved and Rev. Pruitt seconded that the board approve the proposed agenda. The board unanimously adopted the motion.

Chair Price Spratlen asked for introductions from those present.

2. *Approval of Meeting Minutes of May 21, 2001.* With minor corrections, Mr. Howell moved and Rev. Pruitt seconded that the board approve the May 21, 2001, meeting minutes. The board unanimously adopted the motion.

Mr. Fowler arrived at 4:36 p.m.; Mr. Chelminiak arrived at 4:38 p.m.

3. *Request for Advisory Opinion.* Ms. Clemens briefed the board on a request for an advisory opinion from Mr. Bell. He asked the board whether county employees working at the Cedar Hills Regional Landfill may use the county's truck wash

facilities to clean their personal vehicles under the King County Code of Ethics. Employees wish to use the facility since their cars become dirty while parked near the landfill. Solid Waste Division management, in charge of operations at Cedar Hills, had determined that the truck wash facility may only be used to clean official county vehicles. Cedar Hills management had based its policy on K.C.C. 3.04.020 (A) and (B), Just and Equitable Treatment, and Advisory Opinion 1146 (Sept 1996) that sets out guidelines for the use of county property under the Code of Ethics.

Mr. Bell arrived at 4:41 p.m.

Due to his timely arrival, Ms. Clemens invited Mr. Bell to inform the board himself on his request. Mr. Bell confirmed the previous briefing and described the operations related to the truck wash facility and work carried out at the landfill, which is located outside of Maple Valley, Washington. He stated that a prohibition against using the truck wash facility existed previously but was not enforced. New enforcement, following ethics training on use of county property, resulted in vocal opposition by employees. Mr. Bell also informed the board that Cedar Hills management has attempted to compromise with employees by providing them with a window cleaning station should their windows become so dirty that safety becomes an issue. Employees also have been given the option to park in designated areas away from the active operations area.

Mr. Pruitt asked about the distances of the alternate parking sites. Mr. Bell stated that he walks about 50' to a cleaner area; employees' cleaner parking areas are approximately $\frac{1}{4}$ to $\frac{1}{2}$ mile away, with county transportation available. Mr. Howell asked if all 300 landfill employees would be affected. Mr. Bell said no, only about five to seven individuals on a given day. Chair Price Spratlen stated that Advisory Opinion 1146 speaks specifically to this issue, and prohibits use of county property unless for official business. She noted that management had taken care of the safety issue and that the policies of enforcement were good. Mr. Howell asked Mr. Bell if management was not placing the burden on the ethics board to decide the issue. Mr. Bell stated that he had received negative feedback from employees on his policies and wanted to make sure he has been interpreting the code correctly. He would abide by whatever the board should decide, but wanted to make sure he is on firm footing. Following additional discussion, Mr. Pruitt moved to decline to issue an opinion on the request because the board had previously issued an opinion on the issue. He further moved that employee use of the county's truck wash facility at the Cedar Hills Landfill would constitute a violation of K.C.C. 3.04.020 prohibiting such use for personal convenience. Mr. Howell seconded the motion and the board unanimously adopted the motion. The board then directed Mr. Clemens to send a letter to Mr. Bell summarizing the board's determination. Mr. Bell thanked the board and administrator for their action and left the meeting at 5:13 p.m.

4. *Administrative Policies and Procedures.* Ms. Clemens briefed the board. She

explained that two executive procedures associated with the Board of Ethics have become outdated over time. Records Management Division requested that these documents be amended and made current. In response, board counsel drafted amended procedures in conjunction with the board administrator. They are: 1) Procedures for Disseminating Ethics Information and Conducting Ethics Training; and 2) Procedures for Filing Acknowledgment of Receipt Statements, Statements of Financial and Other Interests, and Consultant Disclosure Forms. Ms. Clemens stated that, in accordance with official Records Management procedures to develop or amend existing documents, she had submitted the draft ethics procedures to the executive policy group for review and comment. Ms. Clemens and the board then reviewed all comments made in response to the request for review for both of the draft procedures.

Following discussion, Mr. Howell moved to accept the draft Procedures for Disseminating Ethics Information and Conducting Ethics Training, with minor corrections, and then to transmit the corrected draft to the executive for approval and signature. Rev. Pruitt seconded the motion and the board unanimously approved the motion. Mr. Howell then moved to accept the draft Procedures for Filing Acknowledgment of Receipt Statements, Statements of Financial and Other Interests, and Consultant Disclosure Forms, with minor corrections, and then to transmit the corrected draft of the executive for approval and signature. Rev. Pruitt seconded the motion and the board unanimously approved the motion.

5. *Review of the Ethics Code.* Mr. Porter briefed the board and opened a discussion of potential modification of the Penalties section of the Code of Ethics. He noted that the ethics code does not unambiguously establish the Ombudsman, or any other person or body, as an 'enforcement officer.' This fact is likely a fatal flaw and renders the provisions of the code allowing for civil and criminal penalties unenforceable. Washington State law provides for a system of enforcement of violations from someone specifically authorized to enforce such provisions when there is reasonable cause to believe that a civil infraction has been committed. It does not allow for an ambiguous designation of a person to assess and issue penalties. The Office of the Prosecuting Attorney (PAO) has stated previously that the code is not sufficiently clear on this issue to allow the Ombudsman—or anyone else—to assess civil penalties. Mr. Fowler noted that his office did in fact assess civil penalties when he first took his position with King County in 1997, but the practice soon changed following the PAO's review and decision on the issue. There has been no real discussion of assessing civil penalties since that time. In addition, Mr. Fowler stated that the issue of criminal penalties has never come up, but if it did, he would look for intent. Mr. Howell asked how other ethics agencies handle civil penalties. Mr. Porter stated that a survey of other state, county and municipal ethics code provisions indicates that the assessment of civil penalties is relatively common, while the assessment of criminal sanctions is relatively rare. In addition, many code provisions, even those that do not provide for civil penalties for code violations, allow

for the assessment of monetary sanctions for failure to complete and file financial disclosure forms. The plans typically call for a daily fine of five to 10 dollars accumulating from the due date until the form is filed. The board discussed the possible benefit or harm from assessing fines for failure to file disclosure forms by April 15th deadline. Ms. Clemens noted that fining board and commission members could be detrimental to finding members to serve and could be poor community relations. Chair Price Spratlen agreed and suggested a three to six-month grace period for members, but a firm deadline for employees. The group discussed applying pressure on department heads, and Ms. Clemens stated that ethics office strategy has always been training, education and support from county leaders. Despite those efforts, 4% of employees and 13% of members had not filed by the deadline. Mr. Chelminiak suggested looking at the total number required to file and to keep the number of those not in compliance in context. Mr. Howell stated we should shy away from punitive actions. Chair Price Spratlen asked about assessing directors for employees who have not filed. However, Mr. Porter and others suggested that course of action could be illegal. Mr. Fowler suggested creating evaluation forms for non-compliant employees that would be placed in personnel files. Following additional discussion, Rev. Pruitt moved that the administrator ask the executive and council chair to issue a statement in January establishing a policy of full compliance of disclosure statements by the deadline; Mr. Howell seconded the motion and the board unanimously approved the motion. Mr. Howell then asked Mr. Porter and Ms. Clemens to research the success of other ethics agencies in using fines as a tool for timely filing compliance.

6. *Staff Report.* Ms. Clemens briefed the board. Final Report—2001 Disclosure of Financial and Other Interests. The administrator prepared and distributed the final report on June 6, 2001, to the county executive, council chair, separately elected officials, department directors, department coordinators, and staff liaisons to boards and commissions. The report detailed the current disclosure program, including information on training and education efforts; systems of review, notification, reminders and reports; and recommendations for improvements to the program. As of the report date, 1,927 employees were required to file and 100% were in compliance; of the 464 members required to file, only four had not filed. However, as of the filing deadline, April 15th, 84 employees and 60 members had not filed. Report recommendations included: 1) that department directors and the executive communicate with each of the four members not in compliance and notify them that they must either file immediately or be removed from their positions; and 2) that department directors take a greater role in enforcing the April 15th filing deadline; that directors work more closely with those implementing the program at the beginning of the year to ensure that employees and members understand the importance of the filing requirement and that they comply with the law. Timely filing would not only satisfy legal requirements, but also effect program efficiencies and cost savings to the county. Proposed Amendment on Filing Orders Under the Code of Ethics. Ms. Clemens informed the board that the Council of the Whole (COW)

had addressed the matter on June 11, 2001. At that time, Mr. Chelminiak briefed the COW and both Mr. Fowler and Ms. Clemens spoke to the issues. Ms. Clemens commented on the effectiveness of their presentations. COW members asked relevant questions regarding the public's need to easily access disclosure statements and campaign finance information of public officials. They inquired how that ability would be maintained if documents were now filed only with the board. Those questions, and others, could only be addressed with additional information from the Mr. Bob Bruce, manager, Records and Elections Division. Mr. Chelminiak and Ms. Clemens promised to meet with Mr. Bruce, and then invite him to the next meeting of the COW when the amendment would again be reviewed. Proposed Amendment on Post Employment Provisions Under the Code of Ethics. Ms. Clemens informed the board that on June 6, 2001, she had given Mr. James Buck, Acting Director, DIAS, the memos and draft documents necessary for transmittal of the proposed amendment to the executive. Mr. Buck will review the materials and forward them to the executive for his review and transmittal to the council for action and approval.

7. *Reception and Gift Expenses.* Reception. Chair Price Spratlen noted the success of the 4th Annual Board of Ethics Reception held on June 7, 2001, and this year's high attendance rate. She stated that this event will be a good foundation on which to base next year's event. Chair Price Spratlen mentioned that Ms. Clemens had sent acknowledgment letters of appreciation to all that attended. The board discussed the cost of the event, paid for by board members and Ms. Sheryl Whitney, Assistant County Executive. All outstanding contributions should be sent to Ms. Clemens as soon as possible. Johansen Gift. Mr. Howell mentioned he had attended the retirement celebration for former board counsel, Mr. Carl Johansen, on June 7, 2001. Chair Price Spratlen noted that contributions from board members toward the board gift to Habitat for Humanity International in Mr. Johansen's name should be sent to her as soon as possible.

Mr. Howell commended Chair Price Spratlen on her letter of June 12, 2001, to the county executive regarding the board's position on the changes effected by the reorganization. Ms. Clemens requested that a copy of all correspondence originated by board members regarding county or board business be sent to the ethics office in order to maintain accurate historical files.

Mr. Howell moved and Rev. Pruitt seconded a motion to adjourn the meeting. The board unanimously approved the motion and the meeting was adjourned at 5:50 p.m.

Approved this 16th day of July, 2001, by the King County Board of Ethics.

Signed for the Board: _____
Dr. Lois Price Spratlen, Chair